

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

TIMOTHY BOX, #1771236,
Petitioner,

v.

LORIE DAVIS, Director, TDCJ-CID,
Respondent.

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CIVIL NO. 3:16-CV-1318-K-BK

**FINDINGS, CONCLUSIONS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pursuant to [28 U.S.C. § 636\(b\)](#) and *Special Order 3*, the March 10, 2017 *pro se Motion for Extension of Time to File a Notice of Appeal* was automatically referred to the United States magistrate judge. [Doc. 18](#). For the reasons that follow, it is recommended that the motion be **DENIED**.


On February 21, 2017, the Court accepted findings, conclusions, and recommendation of the undersigned magistrate judge and dismissed with prejudice the habeas corpus petition filed in this case as time barred. [Doc. 15](#). On March 10, 2017, Petitioner filed the motion *sub judice*, seeking an extension of time to file a notice of appeal and a motion for certificate of appealability. [Doc. 18](#). The motion was filed within the 30-day statutory period for filing a timely notice of appeal, *see* [FED. R. APP. P. 4\(a\)\(1\)](#), but it was unsigned.

Even if the Court were inclined to construe Petitioner's motion for extension of time as a timely notice of appeal, it could not do so since the motion is unsigned. *See* [FED. R. CIV. P. 11\(a\)](#) (requiring that "[e]very pleading, written motion, and other paper must be signed by at least one attorney of record in the attorney's name--or by a party personally if the party is unrepresented"). Thus, on March 16, 2017, the Court issued a deficiency order requiring Petitioner to sign his

motion. Doc. 19. The deadline for Petitioner to comply was April 14, 2017. As of the date of this recommendation, however, Petitioner has not responded to the Court's order, nor has he sought an extension of time to do so.

Accordingly, it is recommended that Petitioner's motion for extension of time to file a notice of appeal be **DENIED**. Doc. 18.

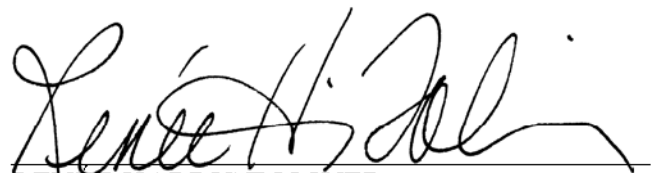
SIGNED April 28, 2017.



RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

A copy of this report and recommendation will be served on all parties in the manner provided by law. Any party who objects to any part of this report and recommendation must file specific written objections within 14 days after being served with a copy. *See* [28 U.S.C. § 636\(b\)\(1\)](#); [FED. R. CIV. P. 72\(b\)](#). In order to be specific, an objection must identify the specific finding or recommendation to which objection is made, state the basis for the objection, and specify the place in the magistrate judge's report and recommendation where the disputed determination is found. An objection that merely incorporates by reference or refers to the briefing before the magistrate judge is not specific. Failure to file specific written objections will bar the aggrieved party from appealing the factual findings and legal conclusions of the magistrate judge that are accepted or adopted by the district court, except upon grounds of plain error. *See Douglass v. United Services Automobile Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996).



RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE